

### **REMARKS / ARGUMENTS**

The present application includes pending claims 1-42, all of which have been rejected. Claims 1, 6-9, 15, 20-23, 29 and 34-37 are rejected under 35 U.S.C. § 102(e) as being anticipated by USP 7,039,027 ("Bridgelall"). Claims 2-5, 10-11, 16-19, 24-25, 30-33 and 38-39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bridgelall in view of USP 6,088,451 ("He"). Claims 12-14, 26-28 and 40-42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bridgelall in view of USP 7,325,058 ("Sheth"). Without conceding that Bridgelall qualifies as a prior art under 35 U.S.C. § 102, the Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

#### **Rejection Under 35 U.S.C. § 102**

##### **I. Bridgelall Does Not Anticipate Claims 1, 6-9, 15, 20-23, 29 and 34-37**

The Applicant now turns to the rejection of claims 1, 6-9, 15, 20-23, 29 and 34-37 under 35 U.S.C. 102(e) as being anticipated by Bridgelall.

With regard to the anticipation rejections under 102, MPEP 2131 states that "[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation

omitted). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See *id.* (internal citation omitted).

**A. Rejection of Independent Claims 1, 15, and 29**

With regard to the rejection of independent claim 1 under 102(e), the Applicant submits that Bridgelall does not disclose or suggest at least the limitation of “receiving on a first PHY channel **of an access point**, a request for initiation of a communication session from an originating access device,” or “authenticating said communication session by authenticating said originating access device using a second PHY channel,” or “hosting said communication session over a third PHY channel, said third PHY channel established between said access point and said originating access device,” as recited by the Applicant in independent claim 1.

The Applicant initially points out that Applicant’s claim 1 is from an access point’s perspective. In other words, the “first PHY channel”, the “second PHY channel” and the “third PHY channel”, **all refer to the respective PHY channels on the access point**, and not on the originating access device.

The Office Action (see page 3) states the following (emphasis added):

“Bridgelall discloses ...

a) receiving on a first PHY channel of an access point, a request for initiation of a communication session from an originating access device; (see Bridgelall col 6, lines 7-9: enables user to conduct communications via the network via an access point; col. 7, lines 33-36: **mobile unit (wireless device) posts a request to network via channel 336**)”

The Examiner relies for support on Bridgelall's Fig. 2 and equates Bridgelall's WWAN 200 (i.e., GSM communication between the radio device 242 and the antenna 226), via the WLAN 201 (i.e., between the radio device 242 and the AP 202) and via the Bluetooth (i.e., between the radio device 242 and the Bluetooth headset 244) to Applicant's hybrid wired/wireless network. The Applicant respectfully disagrees, and points out that Bridgelall's Fig. 2 (see Bridgelall's col 6, lines 7-9) clearly discloses only a wireless communication network, not the alleged "hybrid wired/wireless network".

The Examiner also equates Bridgelall's radio device 242 to Applicant's "originating access devices", and Bridgelall's access point 202 to Applicant's "access point". The Examiner relies for support on the following citation of Bridgelall:

**"FIG. 4 describes a mobile originated call process 400 for establishing call to another user or terminal within the network. A mobile unit posts a request to the network in Step 35 402, via the RACH Channel 336."**

See Bridgelall at col. 7, lines 33-36 (emphasis added). The Examiner alleges that Bridgelall's above citation discloses "receiving on a first PHY channel **of an access point**, a request for initiation of a communication session from an originating access device," as recited in Applicant's claim 1.

The Examiner's argument is deficient, because Bridgelall's Fig. 4 refers to a call process (the alleged "communication session") between two mobile users **via**

**the GSM communication network.** In other words, Bridgelall's Fig. 4 at least does not disclose or suggest an alleged "communication session" via the WLAN 201 **between the radio device 242** (the alleged "originating access devices") **and the access point 202** (the alleged "access point").

Nevertheless, assuming arguendo, that Bridgelall's Fig. 4 illustrates an alleged "communication session" between the radio device 242 (the alleged "originating access devices") and the access point 202 (the alleged "access point"), the Examiner's argument is still deficient. For example, **the respective channels disclosed in Bridgelall's Figs. 3-5 all refer to the channels of the radio device 242** (the alleged "originating access devices"), **not the respective channels of the access point 202** (the alleged "AP").

Bridgelall's Fig. 4 discloses that the radio device 242 (the alleged "originating access devices") using a RACH request channel (the alleged "first PHY channel") to originate a call (the alleged "request for initiation of a communication session") via the (GSM) network. Bridgelall, however, does not provide any information or details about the access point 202 (the alleged "AP"), let alone discloses which channel is used by the AP 202 to receive the alleged request from the radio device 242 (the alleged "originating access devices").

In this regard, the Applicant submits that Bridgelall does not disclose or suggest "receiving on a first PHY channel **of an access point**, a request for initiation of a communication session from an originating access device," as recited

in Applicant's claim 1.

The Office Action (see pages 3-4) also states the following (emphasis added):

“b) authenticating said communication session by **authenticating said access using a second PHY channel**; (see Bridgelall col 6, lines 7-9: enables user to conduct communications via the network **via an access point**; col. 7, lines 39 - 66: connection management service request via dedicated channel 338 or 340; authentication center provides authentication request to mobile over dedicated channel; **mobile initiates authentication response over dedicated channel**; response executes a cellular authentication and voice encryption algorithm; algorithm produces a registration authentication result which is provide to service provider) “

The Examiner, by his own admission, concedes that Bridgelall discloses that the mobile radio device 242 (the alleged “originating access devices”) is the one (i.e., **not the AP 202**) which initiates the authentication request. The Examiner is further referred to the following citation of Bridgelall:

“A connection management service request to the network is initiated in Step 406, via a dedicated control channel 338 or 340. In Step 408, the Authentication Center 218 (FIG. 2), **provides an authentication request to the mobile over the dedicated channel**. Typically, the authentication is based on private key cryptographic techniques in which a secret key known as a shared secret data is shared between the mobile station and the Authentication Center (AC). Authentication protocols are described in the EIAiTIA Telecommunications System Bulletin (TSB) 51. **The mobile in Step 410 initiates an authentication response over the dedicated channel to the network**. The response executes a cellular authentication and voice encryption algorithm using the Service Set Identifier (SSID); Electronic Serial Number (ESN), Mobile Identity Number (MIN) and a random number obtained from the PCs service provider. The algorithm produces a registration authentication result, which is provided to the personal service

provider and includes the registration authentication results; ESN; MIN; the most significant eight bytes of a random number, and a count value that is the count of the most significant events such as registration, call origination, call determination initiated by the mobile station. The personal service provider forwards the authentication request to the Authentication Center which enters into an encryption mode command in Step 412. The encryption mode is forwarded to the mobile for completion and returned to the network in Step 414.”

See Bridgelall at col. 7, lines 33-36 (emphasis added). As seen from the above citation, Bridgelall discloses that the mobile radio device 242 initiates an authentication algorithm with the authentication center 218 via the (GSM) network, without passing through the AP 202 (the alleged “AP). In this regard, Bridgelall does not disclose or suggest that the AP 202 (the alleged “AP) authenticates the radio device 242 (the alleged “originating access devices”), let alone discloses that the AP 202 uses an alleged “second PHY channel” to authenticate the radio device 242.

In this regard, the Applicant submits that Bridgelall does not disclose or suggest “authenticating said communication session by authenticating said originating access device using a second PHY channel,” as recited in Applicant’s claim 1.

The Office Action (see page 4) further states the following (emphasis added):

“c) hosting said communication session over a third PHY channel, **said third PHY channel established between said access point and said originating access device.** (see Bridgelall col 6, lines 7-9: enables user to conduct communications via the network via an

access point; col. 8, lines 4-9: network assigns traffic channel for transmission of user data; assignment command from network and assignment complete message from mobile; **communication on new channel 342)**”

The Examiner relies for support on the following citation of Bridgelall:

“In the meantime, the network assigns a traffic channel for the transmission of user data in Step 420. The assignment command from the network is answered by **an assignment complete message from the mobile in Step 422, which is already on the new channel FACCH/TCH 342.**”

See Bridgelall at col 8, lines 4-9 (emphasis added). Bridgelall discloses assigning a new channel “FACCH/TCH” 342 **in the radio device** 242 when the channel is established. Again, Bridgelall does not mention of the AP 202, let alone disclose that the AP 202 uses an alleged “Third PHY channel” to host the communication established with the radio device 242.

In this regard, the Applicant submits that Bridgelall does not disclose or suggest “hosting said communication session over a third PHY channel, said third PHY channel established between said access point and said originating access device,” as recited in Applicant’s claim 1.

Therefore, based on the foregoing arguments, the Applicant maintains that Bridgelall does not anticipate Applicant’s claim 1. The Applicant respectfully requests that the rejection of claim 1 under 35 U.S.C. 102(e) be withdrawn. Likewise, independent claims 15 and 29 are submitted to be allowable for the

same rationale of independent claim 1.

**B. Rejection of Dependent Claims 6-9, 12-14, 20-23, 26-28, 34-37 and 40-42**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 15 and 29 under 35 U.S.C. § 102(e) as being anticipated by Bridgelall has been overcome and requests that the rejection be withdrawn. Additionally, claims 6-9, 12-14, 20-23, 26-28, 34-37 and 40-42 depend directly or indirectly from independent claims 1, 15 and 29, respectively, and are, consequently, also respectfully submitted to be allowable.

**Rejection Under 35 U.S.C. § 103(a)**

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure, Rev. 6, Sep. 2007 ("MPEP") states the following:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

See the MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). Further,



MPEP § 2143.01 states that “the mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art” (citing *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007)). Additionally, if a prima facie case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness:

The examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

## **II. The Proposed Combination of Bridgelall and He Does Not Render Claims 2-5, 10, 11, 16-19, 24, 25, 30-33, 38 and 39 Unpatentable**

The Applicant now turns to the rejection of claims 2-5, 10, 11, 16-19, 24, 25, 30-33, 38 and 39 as being unpatentable under 35 U.S.C. §103(a) over Bridgelall in view of He.

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 15 and 29 under 35 U.S.C. § 102(e) as being anticipated by Bridgelall has been overcome. He does not overcome the deficiencies of Bridgelall. Since claims 2-5, 10, 11, 16-19, 24, 25, 30-33, 38 and 39 are dependant directly or indirectly from independent claims 1, 15, and 29, respectively, the Applicant respectfully submits that the rejection of the dependent claims consequently be withdrawn and the claims 2-5, 10, 11, 16-19, 24, 25, 30-

33, 38 and 39 be allowed.

**A. Rejection of Dependent Claims 10 and 24**

The Examiner states the following in page 4 of the Final Office Action:

“... He discloses wherein comprising generating at least one encryption/decryption key. (see He col. 18, lines 2-5; col. 19, lines 8-11; col. 20, lines 57-61: generation encryption/decryption key)”

The Examiner relies on He (see He col. 18, lines 2-5; col. 19, lines 8-11; col. 20, lines 57-61) to disclose the deficiency of Bridgelall, namely, “generating at least one encryption/decryption key dependent on the determined traffic type,” as recited in Appellant’s claim 10. Specifically He discloses generating a temporary secret key to secure communication **between the user and the network access server**. However, He still does not disclose that the generated encryption/decryption key between the user and network access server is “dependent on the determined traffic type,” as recited in Appellant’s claim 10. Accordingly, the Appellant maintains that He does not overcome the deficiency of Bridgelall. Claim 10 is submitted to be allowable. Claim 24 is similar to claim 10 in many respects, and is also submitted to be allowable.

**III. The Proposed Combination of Bridgelall and He Does Not Render Claims 12-14, 26-28 and 40-42 Unpatentable**

The Applicant now turns to the rejection of claims 12-14, 26-28 and 40-42 as being unpatentable under 35 U.S.C. §103(a) over Bridgelall in view of He.

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 15 and 29 under 35 U.S.C. § 102(e) as being anticipated by Bridgelall has been overcome. He does not overcome the deficiencies of Bridgelall. Since claims 12-14, 26-28 and 40-42 are dependant directly or indirectly from independent claims 1, 15, and 29, respectively, the Applicant respectfully submits that the rejection of the dependent claims consequently be withdrawn and the claims 12-14, 26-28 and 40-42 be allowed.

**CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-42 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and request that the Examiner telephone the undersigned Patent Agent at (312) 775-8093.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: May 18, 2010

/ Frankie W. Wong /

Frankie W. Wong  
Registration No. 61,832  
Patent Agent for Applicant

McAndrews, Held & Malloy, Ltd.  
500 West Madison Street, 34th Floor  
Chicago, Illinois 60661  
(312) 775-8093 (FWW)